

REMARKS

By the present Amendment, Applicant has amended Claims 1, 2, and 7 without prejudice. Claims 3-6 and 8-9 have been cancelled. Applicant reserves the right to reintroduce the cancelled claims at a later date or to further prosecute the original versions of the claims through continuation practice. New Claims 10-12 have been added. Thus, Claims 1, 2, 7, and 10-12 remain pending in the application. Applicant believes, as set forth below, that the application is now in condition for allowance. Furthermore, Applicant respectfully requests that the rejections of the March 26, 2008 Office Action be withdrawn and that the currently pending claims of the application be allowed.

Rejections under 35 U.S.C. §112

Claims 1-9 stand rejected under 35 U.S.C. §112, second paragraph as being indefinite. Applicant has amended the language of Claims 1, 2, and 7 in a good faith effort to correct any deficiencies. If any issues remain, the Examiner is requested to contact Applicant's agent, listed below, to address such remaining issues.

Claims 3-6 and 8-9 have been cancelled, and the rejections of these claims are thus moot.

Rejections under 35 U.S.C. §102(b)

Claims 1-2, 4, and 7 stand rejected under 35 U.S.C. §102(b) as being anticipated by Waldschmitt et al. (US 2003/0052249). Applicant respectfully traverses the rejections.

Waldschmitt et al. teaches a self-climbing concrete wall form hoist with a rocker that operates in one of two provided positions. In contrast, Claim 1, as currently amended, recites, among other limitations a climbing system for shuttering, scaffolding and loads in general having *inter alia* an upper head and a lower head, "each of the heads having a rocker configured to act on flanges or blocks distributed along the upright." Claim 1 further recites "a handle...to change the position of the rocker in relation to the upright, wherein the handle defines three operating positions for the rocker..."

Claim 1 additionally recites a safety positioner comprising:

an inner disc that moves with a tilting movement of the rocker and that has a peripheral notch that defines a groove, which works with a spring positioner housed, depending on the operating position of the rocker, in one of three holes provided in an outer cover of the head, in such a way that the tilting movement of the rocker is limited when the spring positioner abuts against one of the edges of

the groove in the inner disc and, specifically, (a) an upper hole into which the spring positioner is adapted to be inserted to define a position that limits the tilting movement of the rocker as the bracket arrangement is raised, (b) a lower hole into which the spring positioner is adapted to be inserted to define a position that limits the tilting movement of the rocker as the upright is raised, and (c) a central hole that defines a neutral position of the rocker, there being in a central area of the groove, a hole or recess that coincides in position with the central hole of the outer cover, into which the spring positioner is inserted, preventing the rocker from moving in either direction and thus securing the neutral position of the rocker.”

The three operating positions of the rocker and the safety positioner that limits the tilting movement of the rocker in each of the three operating positions work together to provide important safety advantages that are much valued at construction sites. In the third, neutral, operating position, where one of the rocker faces is kept parallel to the upright, the upper and lower heads do not add any excess load to the structure if the hydraulic system is accidentally activated and the hydraulic cylinder moves.

Furthermore, when the rocker tilts to pass a welded block on the upright, the rotation is limited by the head itself. This limitation ensures that even if the manufacturing tolerances of the upright or the welded blocks vary, and the rotation of the rocker is affected, the rotation will never exceed this limit, making it impossible to pass from an upright-raising position to a bracket-raising position. If this were to occur at a construction site and the workers did not notice it (which would be normal, considering the operating conditions), an accident may take place, because in the next raising or lowering operation, one cylinder would not operate.

In contrast, the Examiner correctly states, with reference to another rejection, that “Waldschmitt et al. (‘249) is silent about defining three operating positions for rocker including a neutral position for rocker where rocker does not interact with the upright...”

The Examiner also correctly states, with respect to Waldschmitt et al., that “prior art is silent about the structure of the safety positioner comprising an inner disc including a groove, spring positioner, and outer cover with three holes or recesses in such a way that the tilting movement of the rocker when the spring positioner abuts against one of the edges of the groove in the inner disc...”

Waldschmitt et al., therefore, does not teach or suggest each and every element of Claim 1, as currently amended, and cannot anticipate Claim 1. Applicant therefore respectfully requests withdrawal of the rejection and allowance of Claim 1.

Claims 2 and 7 are patentably distinct from the applied references in view of their dependencies from Claim 1, which is allowable as discussed above, and because they recite additional patentable distinctions over the reference.

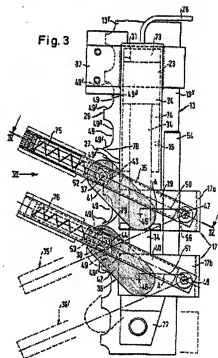
Claim 4 has been cancelled and the rejection is thus moot.

Rejections under 35 U.S.C. §103(a)

Claims 3, 6, and 8-9

Claim 3, 6, and 8-9 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Waldschmitt et al. in view of Schworer (US 5,000,287). Applicant respectfully traverses the rejections. However, in order to advance prosecution of the application, Applicant has cancelled all of Claims 3, 6, and 8-9, and the rejections are thus moot. Nonetheless, Claim 1, as currently amended, now recites at least some of the limitations of Claim 3, especially regarding the three operating positions of the rocker, and a discussion of the cited combination is thus warranted.

As noted above, the Examiner correctly states, that “Waldschmitt et al. ('249) is silent about defining three operating positions for rocker including a neutral position for rocker where rocker does not interact with the upright...” However, the Examiner goes on to mistakenly state that Schworer teaches “Pivot levels (39 and 40) associated with toggle levers (41, 42) [that] have three operating positions to determine movement of the displacement mechanism (17) comprising a dead center position as a neutral position ...” Instead, as depicted in the copy of Fig. 3 to the right [shading provided by Applicant for ease of description], only two positions of the toggle levers (shown as shaded) and the pivot levers (shown as long rectangular structures that intersect the toggle levers) are taught by Schworer. An initial “carrying position” is shown in solid lines, and a “mirror-image arrangement”, 35', 36', for pushing the carrier rail upward is shown in broken lines. (See cols. 10 and 12.) Although Schworer's levers may incidentally pass through a position that happens to be dead center between the two operating positions



when switching from one to the other, it would be improper to characterize as “operating positions” any positions of Schworer other than the two depicted in Fig. 3 and described in the patent.

Furthermore, Applicant’s neutral operating position is not a position for “free vertical movement of the upper and lower heads on the upright to adjust the climbing system according to the position of the upright and bracket arrangement,” as the Examiner states is suggested by Schworer. Instead, as taught in paragraph [0028], Applicant’s neutral position “also prevents the raising mechanisms from accidentally moving the upright or the bracket arrangement.” Thus, in direct contrast with Schworer et al., Applicant’s neutral position limits the movement of the heads.

In summary, neither Waldschmitt et al. nor Schworer, nor a combination of the two, teach or suggest three operating positions, including a third “neutral position in which an inclined plane of the rocker is parallel to the upright and does not interact with the upright,” as recited by Claim 1.

Claim 5

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Waldschmitt et al. in view of Blaive et al.(EP 0155217). Applicant respectfully traverses the rejection. However, in order to advance prosecution of the application, Applicant has cancelled Claim 5, and the rejection is thus moot.

Nonetheless, Claim 1, as currently amended, now recites at least some of the limitations of Claim 5, and a discussion of the cited combination is thus warranted.

Blaive et al. teaches a security device that serves to safely halt operation of a winch-and-pulley apparatus for lifting loads. The device provides a set of rollers that are released and are allowed to wedge against the pulley chain’s movement when a weight sensor that monitors the load determines that the chain around the pulley has broken. (See Figs. 2c and 2d.) The device is designed for use in the context of a nuclear power plant, where inadvertently allowing a load to drop and/or incorrectly halting operation of the lifting apparatus could have very serious consequences.

Unlike the present invention and Waldschmitt et al., no rocker is taught by Blaive et al. Furthermore, even with its winch-and-pulley system, the safety device of Blaive et al. does not work in conjunction with normal operation positions of the load lifting mechanism. Accordingly, Blaive et al. does not teach or suggest limiting the tilting movement of a rocker in any of three normal operating positions. Instead, when activated, the safety device of Blaive et al. halts all operation of the load lifting mechanism until the pulley chain can be repaired. Accordingly, one of ordinary skill in the art would not find a suggestion to limit the tilting movement of Waldschmitt et al's rockers during normal operation by combining them with the weight sensor and pulley-halting safety mechanism of Blaive et al. Such a combination of Waldschmitt et al. with Blaive et al. would provide little utility.

Furthermore, neither Waldschmitt et al nor Blaive et al. teach or suggest the benefit of three operating positions. Accordingly, neither Waldschmitt et al nor Blaive et al. teach or suggest a safety positioner, with structure for interacting with one of three different holes that each limits movement for a different operation position of the rocker. In contrast, Claim 1 recites, *inter alia*, an inner disc that:

has a peripheral notch that defines a groove, which works with a spring positioner housed, depending on the operating position of the rocker, in one of three holes provided in an outer cover of the head ...in such a way that the tilting movement of the rocker is limited when the spring positioner abuts against one of the edges of the groove in the inner disc, specially (a) ...a position that limits the tilting movement of the rocker as the bracket is raised, (b)...a position that limits the tilting movement of the rocker as the upright is raised, and (c) ...a neutral position of the rocker...preventing the rocker from moving in either direction and thus securing the neutral position of the rocker.

In summary, neither Waldschmitt et al. nor Blaive et al., nor a combination of the two, teach or suggest a safety positioner configured to limit the tilting movement of a rocker in any of three operating positions, including a third neutral position as recited by Claim 1.

New Claims 10-12

New Claims 10-12 include the three operating positions of the rocker and the safety positioner that interacts with the rocker in the three operating positions. No new matter has been

Application No.: 10/581,129
Filing Date: May 30, 2006

added with the addition of these claims. Thus, for the reasons described above, new Claims 10-12 are believed to be patentable, and Applicant respectfully requests allowance of same.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicant is not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicant reserves the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicant has made any disclaimers or disavowals of any subject matter supported by the present application.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 28, 2008

By: Nira Brand
Nira Brand
Registration No. 52,648
Agent of Record
Customer No. 20995
(949) 721-7606